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ABSTRACT

Documenting the inefficiency of the Housing and Urban Development (HUD) programs for American Indians, this report discusses HUD program administration and presents specific recommendations. The report is divided into the following sections and subsections: (1) 1977 is the ninth consecutive year HUD has promised more Indian housing than it has delivered; (2) Indian housing is desperately needed; (3) HUD's administration of Indian housing is disorganized and inefficient (HUD's Indian programs are disorganized, HUD has failed to assure coordination with the Bureau of Indian Affairs and the Indian Health Service, resulting in unnecessary delays; and HUD Indian housing lacks quality); (4) Indian housing programs are flawed by HUD's poor relationship with Indian housing authorities, (background; HUD has a poor relationship with Indian housing authorities; the HUD Indian housing regulations and handbook are not based upon reality and, therefore, are impossible for the Indian housing authorities to implement; and HUD is mismanaging its program to improve management of local Indian housing authorities); (5) recommendations (HUD should maintain a commitment to Indian housing authorities) high Indian housing goals; given the special nature of Indian needs, HUD should combine all Indian program activities into one Indian program office reporting directly to the Secretary; HUD should take the lead in the Federal Indian housing effort; and HUD must face squarely the responsibility to help build institutions as well as houses). (JC)

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TRAIL OF BROKEN PROMISES:
An Assessment of HUD's Indian Housing Programs

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I. 1977 Is the Ninth Consecutive Year HUD Has Promised More Indian Housing Than It Has Delivered

HUD's Indian housing program has been a trail of broken promises. Since 1969, HUD has committed itself each year to production of 6,000 or more Indian housing units. Each year, HUD has fallen far short of its goals.

In the 1969 tri-agency agreement with the Indian Health Service (IHS) and the Bureau of Indian Affairs (BIA), HUD committed itself to producing 30,000 Indian housing units in the five years, FY 1970-74. HUD failed to fulfill this promise: there were only 17,000 HUD Indian housing starts in that period.

Recognizing the failure, HUD Secretary Carla Hills increased the commitment to 9,723 housing units in each of the two years FY 1975 and FY 1976. HUD broke these promises as well: there were 2,170 construction starts in FY 1975 and 3,507 starts in FY 1976. The continuing gap between HUD's promises and performance is seen in TABLE I below, provided by HUD's own office of Indian Policy and Programs.

HUD's promise for FY 1977 is ambiguous. The transition document prepared by the outgoing Hills Administration notes a commitment to 9,000 Indian construction starts; HUD's Goals Management System states a goal of 5,460 units. 1/ Whichever of the two commitments one accepts, HUD is failing to meet either one. In the first quarter of FY 1977, there were 913 construction starts, or 71% of the quarterly quota needed to meet the goal of 5,460 units. Our interviews with field

1/ Compare Department of Housing and Urban Development, Review of Programs and Functions, Volume III, January 1977, p. C-29, and Department of Housing and Urban Development, Goals Management System, Status Report FY 77, p. H-20

TABLE I

Indian Housing Needs & HUD Accomplishments FY 1968-1976

Fiscal Year	BIA Inventory New Units Needed	HUD Units Construction Started	HUD Units Completed for Occupancy	HUD Commit-ment
1968	48,866	1,206	992	---
1969	51,182	1,049	1,523	6,000
1970	46,544	3,763	1,206	6,000
1971	49,840	4,974	2,160	6,000
1972	48,313	3,111	2,889	6,000
1973	47,071	2,67[illegible]	3,788	6,000
1974	46,556	2,638	3,499	6,000
1975	51,065*	2,170	3,429	9,723
1976	58,288	3,507	2,695	9,723
TOTAL		25,093	22,181	

SOURCE: HUD Office of Indian Policy and Programs 1977

*Reflects An Expanded Area Served By BIA Over Previous Years

offices indicate that HUD will fall significantly short of the FY 1977 goal if present policies are continued.

II. Indian Housing Is Desperately Needed

HUD's poor performance stands against a background of desperate need for Indian housing. There are about 117,000 Indian housing units within the areas served by the BIA, mostly federal reservations. (Excluded are Indians living on state reservations, in non-federally recognized Indian communities, and in urban areas.) Of those 117,000 units, BIA reports over half (61,493) to be in substandard condition, of which half again (33,501) are so dilapidated as to require replacement. BIA lists another 26,704 Indian families who are presently doubling up with other families. BIA combines the number of seriously substandard homes with the number of unhoused families to determine the total Indian need for new housing of over 60,000 units. The American Indian Policy Review Commission adds that poor housing is a major factor driving Indians from the reservation to urban areas.2/

Moreover, the reported Indian housing situation has worsened in recent years, as can be seen from TABLE I. In 1969, the year of HUD's promise of 30,000 new homes in five years, BIA reported an Indian housing need of 49,000 units. By the beginning of 1977, the reported need increased to over 60,000, despite the 21,000 HUD units constructed over the eight year period.3/

Statistics do not tell the whole story. Poor quality Indian

2/ American Indian Policy Review Commission, Tentative Final Report, p. 5-95 (1977)

3/ The BIA figures are presented in the BIA "Consolidated Housing Inventory" Report for the transition quarter.

housing takes its toll in disease and injury. As Dr. Emery A. Johnson, Director of the Indian Health Service, told Congress in 1975,

> The crowded living conditions, inadequate protection from the elements, and generally poor sanitary conditions prevalent in the typical substandard home, represent a hazardous environment for the Indian infant. Many of the diseases which are unusually prevalent among Indian and Alaska Native populations result from, or are aggravated by, poor home environment. These diseases include gastroenteritis, dysentery, influenza, pneumonia, and otitis-media [infection of the middle ear].4/

Given the high proportion of Indian housing that is seriously substandard or overcrowded, one is not surprised to find the results appearing in mortality tables. Dr. Johnson provided the example of infant deaths: While the infant death rates for Indians and Alaska Natives compare quite favorably to the general population for the first 28 days of life, the rate of death of Indian and Alaska Native infants between the 28th day of life and the 11th month is more than twice the similar rate for the U.S. general population. "One of the causes of this significant increase in death rate during the post neonatal period is the poor home environment into which the infant is brought," Dr. Johnson concluded.

Poor housing leads to injury as well as disease. Accidents are the leading cause of death for Indians and Alaska Natives, with an accident death rate of nearly four times that of the general population. "Nearly 40% of the accidents resulting in a first clinic visit during

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4/ Indian Housing, Hearing before the Subcommittee on Indian Affairs of the Senate Interior Committee, May 1, 1975, pp. 19-20.

1974 occurred in or around the home. Many of these falls, burns and other accidental injuries occurring in the home environment could have been avoided," Dr. Johnson testified, "if the home were well designed and properly equipped."5/ In short, HUD's poor performance leads not only to the indignity of a squalid housing environment, but also to disease, injury, and even death.

III. HUD's Administration of Indian Housing Is Disorganized and Inefficient

A. HUD's Indian Programs are Disorganized

The poor performance of the HUD Indian program is reflected in HUD's confused administrative structure. Under the Assistant Secretary for Housing, Indian programs are administered by separate housing production and housing management offices. Under the Assistant Secretary for Community Planning and Development, there is no designated Indian program representative for the major program, community development block grants, but there is an Indian program representative for the smaller planning grant program. Under the Assistant Secretary for Neighborhoods and Consumer Protection is the so-called Office of Indian Policy and Programs, with a two-and-a-half person professional staff, little program authority, and even less influence. An attorney from the Office of General Counsel is involved with Indian programs, and the Counselor to the HUD Secretary plays an influential policy role.

There are three serious consequences of this confused administrative structure. First, HUD's Indian programs tend to be disjointed

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5/IBID., p. 20

in their impact. As HUD's own Indian Programs Task Force noted in 1975,

> ...the lack of a unified Departmental policy has resulted in the delivery of resources to Indian communities in a very haphazard manner, thus losing a potential positive impact upon problems confronting Indian communities. In other words, we have not realized the impact of a coordinated delivery of 701 planning, CD block grant, and Public Housing resources. Each has pretty much gone its own way.6/

Some of this problem has been corrected at the regional office level by creation of special Indian Program Offices in Regions VIII (Denver) and IX (San Francisco). However, in other regions and at the central office level, HUD's programs continue to go their separate ways. In our field interviews, regional officials complained of difficulties in coordinating policies with several different central office groups, each responsible for different HUD Indian programs. Indian groups seeking central office assistance in resolving program difficulties also complain of their frustration. They are routinely referred to the Office of Indian Policy and Programs, only to find that office without the authority or influence to resolve issues, for example, in the Indian public housing program.7/

6/"First Report of the Task Force on Indian Programs: Memorandum For the Secretary," November 6, 1975, p. 4.

7/ See, for example, the letter by HUD Director of the Office of Indian Policy and Programs, Reaves Nahwooksy, to The Native Nevadan newspaper, February 4, 1977. While members of his office meet "almost daily with members of those [HUD] staffs having the ultimate production and management decisions, we lack the authority to make those decisions or to countermand them once made," Nahwooksy wrote.

The second and even more serious consequence of HUD central office disorganization is the inability of the several smaller offices to use their (often unharmonious) voices to increase the priority of Indian programs within HUD. Indian program officials in the field complain about the low status HUD gives Indian housing. Low status means insufficient manpower, resulting in insufficient HUD staff support to Indian housing authorities. Staff shortages also contribute to dissention in some field offices, as housing production and housing management fight for staff badly needed by both. Housing production needs staff to meet quantitative goals, while management tries to improve the capabilities of IHA's to provide counseling, maintenance, rent collection and other administration of the housing inventory. The controversy involves a Hobson's Choice between quanitity and quality of HUD housing programs. Despite the efforts of many dedicated field officials, HUD has given Indian housing a low priority which assures a lack of both quantity and quality. With HUD Indian programs fragmented among several Assistant Secretaries and at least seven different offices, there is no single strong voice to speak within HUD for committing the resources needed to make Indian housing a more productive HUD program.

In this regard, the lesson of the HUD regions is instructive. In those HUD area office jurisdictions serving a small number of Indians, tribes report that their needs may be lost among the other priorities. By contrast, HUD has found it valuable to form special region level offices of Indian programs in some of the western United States, where there are large numbers of Indians. The Assistant Regional

Administrator for Indian Housing is able to speak on behalf of Indian priorities in a manner the previously fragmented Indian program personnel could not. Moreover, it is now possible to train and allocate HUD staff without concern that the pressure of other priorities will compete with their Indian housing work. The Regional Indian Offices were formed early in 1975, and it is too early to measure the impact on actual production. Yet, the centralization of Indian programs offers a lesson which the Central Office should not ignore.

B. HUD Has Failed to Assure Coordination Among Federal Agencies

Unlike HUD, both the Department of the Interior and the Department of Health, Education and Welfare have special Indian service branches (the Bureau of Indian Affairs and Indian Health Service, respectively). In the field of housing, the BIA is responsible for providing access roads to new projects. The BIA also assists in land acquisition and appraisals of proposed housing sites. The IHS is responsible for developing water and sanitation facilities for homes, including HUD-produced housing. While BIA and IHS are to provide roads and water up to the project site, HUD is responsible for all site work including whatever roads and service lines are needed within a project to hook up to those provided by BIA and IHS.

Indian Housing authorities and HUD officials alike point to the problems of coordinating housing construction among the three federal agencies. Region IX (San Francisco) reports, for example, that resolution of a recent BIA-HUD-IHS jurisdictional issue stopped progress on one project for six months. This is not uncommon.

The lack of coordination among the three agencies has often led to absurd results. To give only some examples:

*In a Lovelock, Nevada, Indian Colony project, HUD completed four houses in 1975 which had to remain unoccupied several months before IHS provided the necessary sewer and water lines;

*HUD completed about two dozen mutual help homes in Tuba City, Arizona, five years ago; to date, BIA has not provided needed access roads or sidewalks;

*Region IX reports that IHS constructed water lines for Indian housing on the Colorado River reservation, but failed to assure that the water was fit to drink. The affected tribe finally had to allocate its community development block grant to construct the necessary water treatment plant. (IHS contends that the water is adequate, but HUD and the tribe disagree.) 9/

HUD, BIA, and IHS have attempted to resolve their jurisdictional disputes through tri-agency agreements. The first such agreement came in 1969 (when HUD made its commitment of 30,000 homes in five years) and the second in 1976. Already, the 1976 agreement is proving unworkable, even with subsequent clarifying statements. For example, needless delays occur while HUD and the other agencies determine whether scattered site housing is a "single" project,10/ for purposes of allocating responsibility for roads and sewer and water lines. If HUD is to meet its commitments to Indian housing, it must push for a revision of the tri-agency agreement allowing the three federal agencies to arbitrate their jurisdictional disputes (and

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9/ We obtained the first two examples by telephoning Indian representatives from the affected areas and confirmed the complaints with HUD field staff. HUD field staff assured us that such cases are not infrequent. However, HUD central office remains out of touch: it maintains no records of such problems and no statistics on their incidence.

10/ HUD Counselor Joseph Burstein was unaware of formal agency complaints filed according to the provisions of the 1976 agreement. He reports that his office will again "look into" the issue.

consequent budget allocations) only after the work has been completed by the agency best in position to do so. HUD's failure to assure a workable tri-agency relationship with respect to Indian housing has directly and seriously contributed to the delay in processing Indian housing.

C. HUD Indian Housing Lacks Quality

Too much HUD Indian housing is defective. In Region IX, officials estimate one third of HUD Indian homes are seriously defective, ranging from those requiring additional insulation to 400 units sinking because they were built without adequate soils reports. Region IX has spent over a million dollars of community development money so far to repair defective mutual help units, and estimates another three million dollars are needed.

Region VIII, the other major HUD Indian program office, similarly reports the need to spend four to four and a half million dollars repairing defective HUD houses.

Again, numerous examples can be found:

*In 1970, construction was begun on a 159-unit mutual help project on the Laguna reservation in New Mexico. Of those units, 39 remain uncompleted and unoccupied today. Many of the remainder have proven seriously defective, often requiring the families to vacate the home before repairs can be made. New roofing, wiring, floors, insulation, appliances, and water heaters must be installed.

*On the Papago reservation in Arizona, 182 mutual help and 50 low rent units constructed in 1971 require repair of structural, electrical, and plumbing defects. The Indian Housing Authority claims HUD neglected to provide assistance to the IHA to carry out inspections or a maintenance program. HUD, in turn, is dissatisfied with the performance of the IHA.

*On the Rocky Boy reservation in Montana, 150 units of mutual help housing were constructed in 1973. Twenty-five of these homes were defective in the positioning of furnaces and water heaters, resulting in carbon monoxide seepage into living areas, and were repaired with community development grant

money only in 1975 and 1976. In addition, other units suffer from basic construction defects such as at Laguna; these remain uncorrected, pending resolution of the funding issue between the IHA and HUD.

*In Twin Lakes, Arizona, mutual help homes only two years old have cracked foundations, peeling plaster, poor insulation, and excessive susceptibility to dust and wind;

*In Tuba City, Arizona, Navaho low rent and mutual help housing has settled so that doors and windows jam in their bent frames. Cinderblock low rent homes have virtually no insulation; roofs are constructed of rafters, a layer of board, tarpaper, gravel, and tar. Mutual help homes are susceptible to dust and wind even when doors and windows are closed;

*In Window Rock, Arizona, low rent homes also suffer from poor insulation. Moreover, poor design and construction results in large amounts of dust blowing into homes through the venting system.11/

HUD regulations place primary responsibility for inspection of construction upon the local Indian housing authority. HUD requires its field staff to participate only in spot checks of finished homes, to examine the quality of IHA inspections. HUD officials and Indian housing authority commissioners themselves concede that IHA inspections are generally inadequate. Region VIII(Headquarters: Denver) recently helped establish a two week training course for IHA inspectors at the University of Wisconsin, and other HUD officials are waiting to determine whether such a program might not be valuable for their regions as well.

Once a mutual help home is accepted in defective condition,

11/ Again, we obtained these examples by calling local tribal representatives and then confirmed the complaints with HUD field staff. Although poor quality homes are a systematic problem with HUD Indian housing, the central office is again out of touch, maintaining no records or statistics on the incidence of defects.

the family has one year in which to enforce the warranty against the contractor. Often enforcement of the warranty is not possible: the contractor may reside out of state; the family may not have occupied the home until several months or even a year after construction was completed; or, the serious defect may become apparent only after a year. In any event, most Indian families residing in HUD housing are financially unable to undertake the repairs necessary to correct the defects. Notably absent from the Indian housing regulations is a provision providing for HUD reimbursement for construction defects in new HUD housing such as the FHA Section 518(a). 12/

IV. Indian Housing Programs Are Flawed By HUD's Poor Relationship With Indian Housing Authorities

A. Background

HUD Indian Housing is most often provided under the low income housing programs authorized by the 1937 Housing Act, which established the public housing program as we know it today. Indian public housing includes both a low rent program and a mutual help program for Indians who can contribute labor, materials, cash, or land, and then use their monthly payments to accumulate eventual ownership of the home. Most mutual help housing and many low rent houses are single family homes, either in clusters or on dispersed sites.

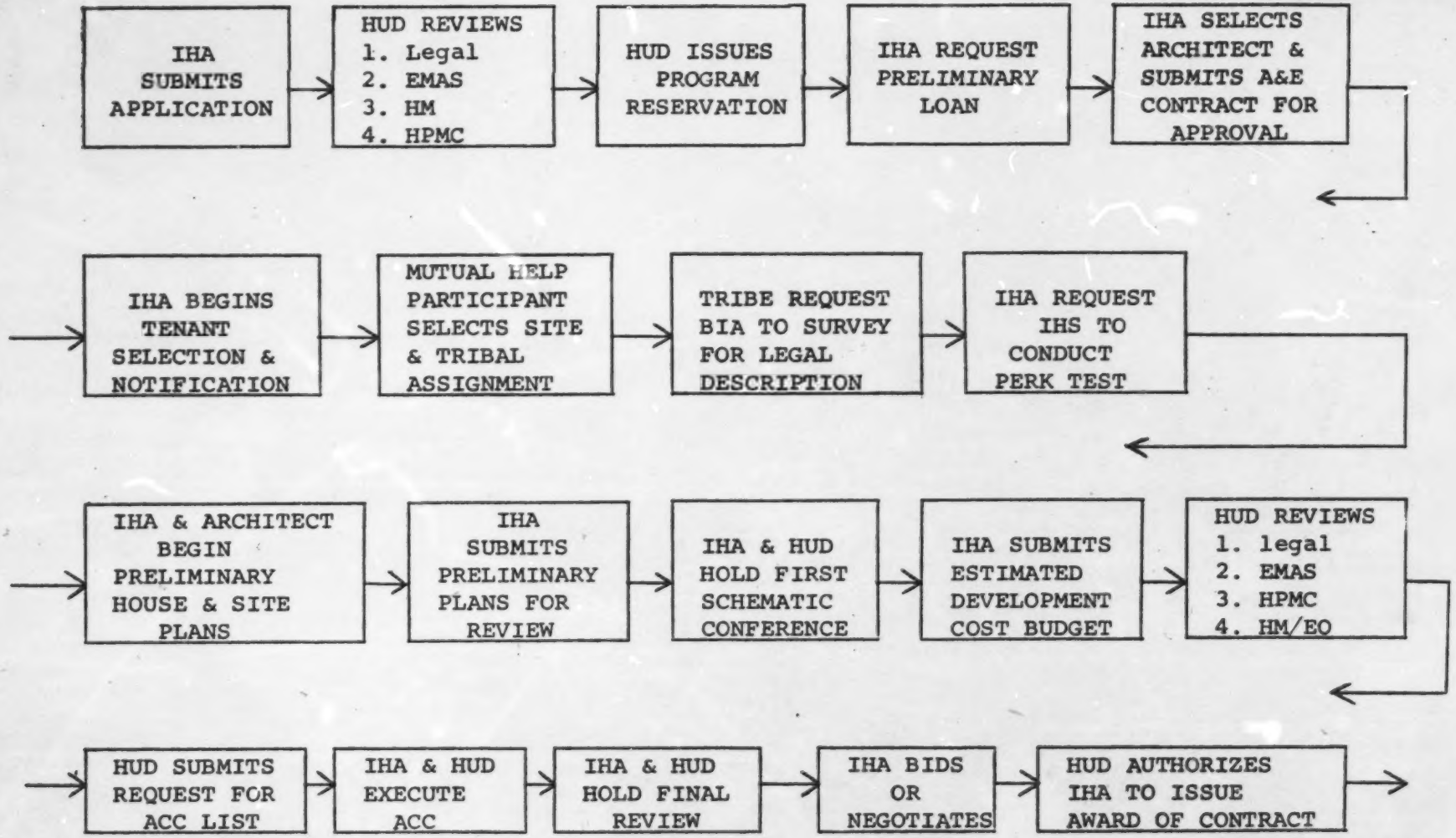
12/ Some HUD field staff note frustration at the exclusion of HUD housing from the BIA home improvement program, designed to upgrade defective homes. While HUD regulations allow ongoing maintenance and repair of low rent homes, the central office has not provided similar benefits for mutual help housing.

For a variety of historical reasons, operation of the standard public housing program has traditionally been decentralized. Considerable authority and responsibility for construction rests with the local public housing authority, subject to HUD review of building quality, conformity of construction costs to prototype guidelines, and other requirements (fair housing, union scale wages, environmental impact, etc.). After construction, the public housing authority is responsible to HUD for managing the project, including collecting of rent.

This pattern has largely been adopted by HUD in its dealings with local Indian Housing Authorities. As can be seen from Chart I, the IHA has considerable responsibility for moving forward with development plans, tenant and site selection, and coordination with BIA and IHS on roads, water and sewers, budget projections, and building specifications. Once HUD authorizes the IHA to award the Annual Contributions Contract, (HUD's commitment to pay annual subsidies), the IHA sells bonds or notes to finance actual construction. The HUD Annual Contribution payments cover debt service on the bonds and notes and support operating and maintenance reserves as well as operating funds.

The IHA is responsible for inspecting the site during construction and, after completion, periodically during the contractor's warranty period. The IHA is supposed to establish a homeowner counseling program, collect monthly payments, and supervise mutual help residents to assure that they are adequately maintaining their homes.

GENERAL APPLICATION PROCESS - CONVENTIONAL MUTUAL HELP ON TRIBAL LANDS


IHA SUBMITS APPLICATION
HUD REVIEWS
1. Legal
2. EMAS
3. HM
4. HPMC
HUD ISSUES PROGRAM RESERVATION
IHA REQUEST PRELIMINARY LOAN
IHA SELECTS ARCHITECT & SUBMITS A&E CONTRACT FOR APPROVAL
IHA BEGINS TENANT SELECTION & NOTIFICATION
MUTUAL HELP PARTICIPANT SELECTS SITE & TRIBAL ASSIGNMENT
TRIBE REQUEST BIA TO SURVEY FOR LEGAL DESCRIPTION
IHA REQUEST IHS TO CONDUCT PERK TEST
IHA & ARCHITECT BEGIN PRELIMINARY HOUSE & SITE PLANS
IHA SUBMITS PRELIMINARY PLANS FOR REVIEW
IHA & HUD HOLD FIRST SCHEMATIC CONFERENCE
IHA SUBMITS ESTIMATED DEVELOPMENT COST BUDGET
HUD REVIEWS
1. legal
2. EMAS
3. HPMC
4. HM/EO
HUD SUBMITS REQUEST FOR ACC LIST
IHA & HUD EXECUTE ACC
IHA & HUD HOLD FINAL REVIEW
IHA BIDS OR NEGOTIATES
HUD AUTHORIZES IHA TO ISSUE AWARD OF CONTRACT

SOURCE: HUD Office of Indian Policy and Programs 1977

CHART I

B. HUD Has a Poor Relationship With Indian Housing Authorities

HUD officials are thoroughly dissatisfied with the overall performance of Indian Housing Authorities. One field office after another complains about the inability of many IHA's to keep accounts, inspect construction, or--above all--collect rents.

If HUD finds an IHA does not have adequate administrative capability, the regulations prescribe that HUD reject all further Indian housing applications. The regulations also specify that HUD shall assist weak IHA's, but only "to the extent of funds and staff available for this purpose."

Given the serious limits on HUD staff and funds, HUD tends to use sanctions rather than provide needed technical assistance to IHA's. Field offices are applying intense pressure to Indian housing authorities to upgrade their performance. Especially Region IX in California, Arizona, and New Mexico, is developing the reputation for demanding improved IHA performance before approving applications for new projects. The result promises to be a far reduced rate of housing production.

Even while applying this pressure, HUD is not providing IHA's the necessary staff support to upgrade their administrative capabilities. The reason appears to be deliberate policy, as well as shortages of HUD staff in Indian programs. One official states: "There's a tendency to put the workload on the local housing authority and get back at arm's length, rather than being dragged in and accused." Another area office indicates it would have to double the size of its program

staff to provide adequate assistance in training and upgrading IHA capabilities.

It should come as little surprise to HUD that Indian housing authorities lack the management resources found in many urban public housing authorities. As the Housing Task Force of the Indian Policy Review Commission points out:

> The problems in attracting these talents to the reservation are not dissimilar from those of any other rural community: inability to pay what these persons could command in an urban environment; lack of opportunity to earn sustained income because of the heavy dependence on short-term federally-funded programs; and the general unavailability of social and cultural inducements. 13/

Without HUD providing technical support, IHA's will continue to have administrative difficulties. As one high Indian program official sees it, it will take twenty years, at present rates of commitment of HUD staff resources, before IHA's in the region are generally capable of carrying out all of their responsibilities under the program regulations and handbook requirements.

C. The HUD Indian Housing Regulations and Handbook Are Not Based Upon Reality and Therefore Are Impossible For the IHA To Implement

HUD field staff and Indian groups alike find the Indian Housing Regulations and Interim Indian Housing Handbook unreal. The National Congress of American Indians recently adopted a resolution stating, in part:

> The Interim Indian Housing Handbook is unworkable. We recommend it be abolished and re-written with Native American input, particularly from the 'field'...Federal

13/ See Report of the Housing Task Force of the American Indian Policy Review Commission, p. 172. (Report submitted August 2, 1976.) An additional problem is political. Tribal Constitutions adopted under federal guidelines often lead to tribal elections on an annual or

> Register, dated March 9, 1976, Regulation for Indian Housing was written by well meaning people who do not know Indian Affairs. There are many reasons this set of rules is not workable for Indian Housing implementation...14/

When we told a senior level HUD field official about the inability of many IHA's even to understand the HUD Handbook, the response was "They're not alone." HUD field staff tend to prefer workable solutions to the impossibly detailed Handbook prescriptions. The occupancy agreement to be signed by Indian mutual help families is appendix number 100 (of 107 appendices in the fat Indian Handbook) and alone runs an impossible 46 pages!

Indian Program Director William Hallett of Region VIII agrees that it is time to reevaluate the HUD Indian Housing Regulations and Handbook from the perspective of workability. "Management requirements are more complex than they need to be," says Hallett. "What really needs to be done is to sit down and question--if a requirement, a process, a paper, a form is not required by legislation or does not serve some meaningful purpose for the client, then we should change the existence of that report..." Yes, the IHA's can use training, says Hallett. But Indian housing also needs a simple straightforward delivery system, so we can tell the IHA why and how a step is taken, instead of simply requiring it. "I just can't see the logic and the reason for some of the requirements and formulas they go through," he concludes.

13/ (Continued from p. 16) biennial basis. This often results in a turnover of Commissioners of the IHA, and contributes to staffing instability.

14/"Position on Indian Housing," adopted by the National Congress of American Indians Executive Council January 19, 1977, at p. 7.

The unreality of the regulations and Handbook are seen in the failure of two of the basic safeguard features: IHA inspections and homebuyer counseling. We have earlier indicated the tendency of some contractors to construct seriously defective Indian housing. The problem is especially serious for mutual help homebuyers, who are responsible for all maintenance work after the contractor's warranty period elapses. The HUD regulations and Handbook place responsibility for periodic construction inspections squarely upon the IHA. HUD has limited its role to providing staff to (1) participate in the final inspection before completion of construction, and (2) make site visits to evaluate the overall quality of IHA inspections.

While these provisions look good on paper, they fail in practice. Indian program officials in different regions are candid about the inability of many IHA's to undertake the necessary inspection work. Overall inspections have not been adequate, three regions report. Given this reality, why don't HUD officials themselves undertake the necessary inspections? HUD simply doesn't have the necessary field staff or even the inclination, is the uniform response. Besides, one official adds with a reference to a defective HUD-subsidized Section 236 Indian housing project, HUD inspections haven't been that good either. Whatever the excuse, too many Indian homebuyers are stuck with seriously defective HUD homes.

Homebuyer counseling is another unreal program safeguard. Section 805.429 provides, "The IHA shall provide counseling to Homebuyers ...," and devotes over a page of the Federal Register to specifying the details. Counseling is important for mutual help homebuyers, again because of the burdens HUD places upon them for maintenance and budgeting (especially because of the requirement that even low income mutual help residents pay repair and utility costs).

Homebuyer counseling is not operative for many Indian housing authorities. Region IX estimates that a maximum of seven IHA's presently provide some form of counseling, out of 24 which should. Another field office observes that counseling is a low IHA priority, and that few IHA's are doing it seriously. Region VIII reports that counseling is only beginning as an ongoing program, and that 60-70% of mutual help residents have not received it. 15/

We asked Joseph Burstein, Counselor to the HUD Secretary for an official comment on the quality of the regulations and Handbook. The regulations and Handbook for the program are fine, he replied. "The problem is administering the thing." That is indeed a serious problem. Regulations that are a lawyer's dream but an administrator's nightmare appear to be the mainstay of HUD's Indian housing program. It is a surefire recipe for program failure.

D. HUD Is Mismanaging Its Program to Improve Management of Local Indian Housing Authorities

In its continuing dissatisfaction with IHA administration of

15/ Several regions report serious dissatisfaction with the BIA program to train homebuyer counselors, which HUD central office approved in the 1976 Tri-Agency Agreement. Once again, the problem appears to be the program assumption that IHA's will have available the professional training staff found in urban areas.

the program, HUD has toyed with the carrot as well as the stick. The carrot is the Management Initiatives for Indian Housing (MIFIH) program, funded at $500,000 in FY 1975, followed by another $2 million in FY 1976. 16/

MIFIH has changed focus several times in its short life. It presently emphasizes small grants to each IHA, without adequate help to IHA's to use the grants for effective management. The 46 page MIFIH Handbook has a process flowchart itself four pages long, and once again places a maximum burden on the IHA to develop a program.

Yet, it is the very absence of qualified personnel that causes much of the administrative difficulty for IHA's in the first place! As a Region X official puts it, "The [MIFIH] Handbook made it hard [to implement the program] because of all the things they told the housing authorities to do. For example, you can't ask [the IHA's] to submit their training proposals until they know who is going to be there to provide the training."

Faced with the fundamentally flawed program, the regions have acted on their own to provide HUD staff for some IHA training sessions. In addition, field offices have begun to list approved trainers and management consultants available within the area or region.

Despite these efforts to remedy the poor program design, HUD

16/ See HUD Handbook 7440.2, Management Initiatives For Indian Housing Program, July 1976, p. 2:

> "Currently MIFIH constitutes a special short-term (two-year) catch-up effort for IHA's to improve upon their administrative capabilities...at a level acceptable to HUD."

has spent little of the MIFIH money. Indeed, our telephone interviews reveal that, as of March 31, 1977, Region VIII had spent only $57,000 of its $606,000 allocation, Region IX spent only $37,500 of its $637,000 allocation, Region X spent perhaps five percent of its allocation, and the Oklahoma City Area Office spent none of its MIFIH allocation yet. 17/

Unless HUD acts to place the management funds in the context of a system to deliver the needed technical assistance and training, we can expect little better MIFIH productivity in the future. The money will simply dribble out as field officials find staff or consultant resources. It will take management initiatives in the HUD central office before MIFIH can bear fruit in the field.

V. Recommendations

A. HUD Should Maintain a Commitment To High Indian Housing Goals

Indian housing is desperately needed, and depends on a high HUD commitment to production. To give one last set of statistics, 44 percent of rural Indians (those primarily served by the HUD Indian program) live in crowded housing (more than one person per room), compared with 10.1 percent of all rural Americans, 67.4 percent of rural Indian families lack running water (compared with 8.7 percent of all rural Americans), and 48 percent of rural Indian families lack indoor toilets (13.6 percent of all rural Americans are so deprived). 18/

17/ Field officials insist we note one reason for the slow startup has been the HUD central office, which delayed over a year before issuing guidelines telling the field how to spend the money. Region VIII adds that it will spend much more money in the last half of 1977.

18/ American Indian Policy Review Commission, Tentative Final Report, p. 3-14.

Except for a small BIA home improvement program, HUD has the responsibility for providing these people safe and decent housing. HUD's poor performance condemns American Indians to poor health and high mortality directly traceable to these miserable living conditions. HUD must keep its goals high, and must meet them.

Moreover, it is important that HUD produce a steady gradually increasing quantity of Indian housing, rather than the sporadic flow of today's housing pipeline. This management and development of a long-term program are essential if the Indian housing authorities are to develop the needed administrative capabilities. It is difficult enough to attract an inspector or counseling trainer or bookkeeper to remote Indian reservations. It is impossible if the job promises to exist only on a year-to-year basis, depending upon the whims of a sporadic HUD program. As one HUD field official asks rhetorically: "Who wants to be a trainer of Indian homeownership counselors if the job will disappear in a year or two." The same question can be asked about learning to be a bookkeeper, inspector, or housing manager.

By a HUD commitment to housing production, we speak of creation of actual housing units for occupancy, and not merely of HUD's periodic paper processes. The department's repeated declarations of sensitivity and concern about Indian programs are meaningful only when backed by commitment of the necessary staff and priority within the department.

B. Given the Special Nature of Indian Housing and Community Development Needs, HUD Should Combine All Indian Program Activities Into One Indian Program Office Reporting Directly to the Secretary

The federal government has a unique responsibility to Indians.

As a result of treaties, agreements, and federal law, a trust relationship has evolved. This relationship obligates the government to act with special care (technically: with fiduciary responsibility) to insure the survival of Indian tribes and people. 19/ When poor housing forces Indians from the tribal reservation to fend for themselves in the cities, the federal government--and HUD in particular--fails to meet this trust responsibility. 20/ Similarly, when housing is so poor as to endanger health and safety of remaining Indians, this trust responsibility is not met.

The trust responsibility to provide Indian housing is a direct result of federal government policies. Land on many reservations is held in trust by the Bureau of Indian Affairs. This means that traditional American home mortgage financing arrangements are not available unless complicated agreements can be reached to protect the lending institution. As Dick Winchell of Arizona State University points out, "Since HUD programs do finance housing on reservations, HUD has become the major, and for some communities, the only financier of housing. The only option is for individuals to save enough to pay cash for their own home, or to build their own home." 21/

Because Indians have such unique housing and community development

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19/ IBID., Chapter 4, and especially p. 4-12.
20/ IBID., p. 5-95.
21/ "Appropriate Housing: An Evaluation of Two HUD Projects From the Fort McDowell Indian Community," a paper presented to the Western Social Science Association annual meeting, April 21, 1977, by Dick Winchell, Arizona State University Department of Geography.

needs, HUD must take special care to assure that the small Indian program staff doesn't become lost amidst other agency priorities. Significantly, HUD Indian housing is generally rural housing. That means HUD must spend more staff and money than in urban housing projects which can draw upon resources in the immediate vicinity. Unlike housing for other groups, Indian housing requires careful coordination with the BIA and IHS for provision of basic supplementary services. Finally, community development programs involve issues of tribal sovereignty and other questions which don't arise in the course of most HUD activity.

HUD has responded to these considerations with periodic expressions of concern and sensitivity, but a fragmented administrative system and low performance. With the advent of the Carter administration and the appointment of a new Secretary of Housing and Urban Development, it is time for a change.

First, it is important that HUD centralize its central office Indian program staff into a single Indian Program Office. This will facilitate better communication both with the field offices and with the BIA and IHS. Most importantly, the single program office will be able to formulate policy based upon Indian needs. (To take only one example, the Minimum Property Standards are designed primarily for suburban middle class homes, and fail to take account of the special physical and cultural needs of rural Indian housing).

Second, it is important that the new Indian Program Office report directly to the Secretary, or possibly the Undersecretary. The Assistant Secretaries for Housing and Community Planning and Development

each have Indian related concerns in their programs. Therefore, having Indian offices report directly to any of the Assistant Secretaries would simply recreate today's fragmented situation. Moreover, the history of special offices, reporting for example, to the FHA Commissioner, Assistant Secretary for Housing is not encouraging. For example, HUD has allowed the Office of Special Assistant for Cooperative Housing to dwindle from a dozen people to less than one, despite an explicit statutory requirement to the contrary. 22/

This recommendation is now new. Groups both within and outside of HUD have made this proposal. 23/ Recently, the Housing Task Force of the American Indian Policy Review Commission proposed that Congress enact the appropriate reorganization to:

(1) Establish an Indian Housing Office within the Office of the Secretary, headed by a director appointed by the Secretary;

(2) Delegate to the director responsibility for administering all HUD programs affecting all Indians, and the responsibility for coordinating HUD's programs with other involved agencies;

(3) Prohibit the Secretary from making any further delegation to any HUD official anywhere who is not directly responsible to the director;

(4) Require the Secretary to appoint a 15 member National

22/ The Special Assistant for Cooperative Housing is mandated by public law 345, 84th Congress, 69 Stat. 636, 12 USC 1715e. Successive Assistant Secretaries for Housing have simply ignored the statutory mandate, despite protests from cooperative housing organizations.

23/ See, "First Report of Task Force on Indian Programs: Memorandum for the Secretary," November 6, 1979, pp. 5-7, and the similar proposal by Senator Mike Gravel (D-Alaska) embodied in S. 1287, introduced in the 95th Congress.

Indian Housing Council, which is to meet at least twice a year, and which has the responsibility of advising the director on matters of policy and planning and conducting an annual Indian Housing Conference. 24/

Much of this proposal could be implemented by the Secretary, without need for legislation.

We would add a third important point about the new Indian Programs Office. It is time for new faces in HUD Indian policy positions. We recommend urgently that HUD infuse its central office Indian program staff with new people. Some might come from the field, others from the competent Indian Housing advocacy groups around the country. The office should include Indians themselves, and not merely non-Indians with a real or professed sensitivity and concern. Above all, the present central office officials responsible for HUD's trail of broken promises should be removed from positions of power over Indian programs.

C. HUD Should Take The Lead in the Federal Indian Housing Effort

The confusion of coordinating building of roads, sewers, and water for HUD housing by three separate federal agencies causes expensive and unnecessary delay. The three agencies should adopt the recommendation of the American Indian Policy Review Commission that the necessary services be provided by the agency best situated to complete the particular job. 25/ Afterwards, the parties can arrange

24/ Report of the Housing Task Force of the American Indian Policy Review Commission, p. 177

25/ IBID., p. 164

the appropriate inter-agency budget transfers.

It is up to HUD, as the agency most centrally concerned with Indian housing, to renegotiate the tri-agency agreement to accomplish this purpose. If the agreement contains an acceptable arbitration provision, the agencies will be able to settle disputes over responsibilities at particular sites. It is essential that the agencies decide after the work has gone forward, rather than delay in the entire process.

It is also important that HUD formally claim the lead role in the Indian housing process. When other agencies are unwilling to meet prior commitments, HUD should be prepared to step forward to complete the work. Only if HUD undertakes this responsibility can we avoid the not-so-comical farce of HUD-built homes lacking sewers, water or access roads.

D. HUD Must Face Squarely the Responsibility to Help Build Institutions As Well As Houses

The single most important element in HUD's Indian housing program is the Indian Housing Authority. The IHA must negotiate with contractors, HUD, the BIA, and IHS to build homes, must inspect for quality and assure correction of defects, must select and counsel prospective residents, and collect rent and generally supervise the housing until it is paid for.

While this set of prescriptions looks good on paper in the HUD regulations, it fails in practice. On one reservation after another, the Indian Housing Authority lacks the trained staff to carry out the many responsibilities. Moreover, the surrounding community also lacks

the trained manpower to be utilized on a contract basis.

HUD officials repeatedly express their frustrations with this problem, but fail to face its program implications. HUD's policy, especially at the Washington level, is to pass the buck to the IHA, regardless of whether it is able to carry the burden. HUD simply leaves the low income consumer to bear the consequences of defective or low quality housing. When the IHA fails to collect sufficient rent, HUD simply applies pressure and threatens to cut off future housing production. 26/

Notably absent from HUD's policy is a commitment to provide the necessary administrative and management skills to help improve the capabilities of the IHA. MIFIH, the HUD management initiatives program, repeats the agency's general failure in dealing with the Indian Housing Authority: it provides money, but fails to break the bottleneck of unavailable quality technical assistance. When the IHA cannot devise its own management (MIFIH) plan, and cannot find qualified trainers, HUD has one more reason to chastise the IHA as incapable. The same is true when HUD urges a management improvement plan onto an IHA with low performance.

It is time to pass the buck back to HUD. When the program doesn't work, it is HUD's responsibility to make it work. Taxpayers pay HUD to develop solutions, not merely to blame the local housing authority for program failures.

Once HUD faces up to the fact of institutional weakness of many

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26/ Region IX has refined the process. Field staff negotiate a management improvement plan with the IHA, specifying steps the IHA must take to improve performance.

IHA's, the problem can be solved. First, HUD must commit increased staff to provide essential training and administrative guidance. Meanwhile, the agency must provide a steady flow of new housing. HUD must also develop an ongoing housing management program, to assure housing counseling, maintenance, and repair of defective homes. Only when HUD's steady commitment to production and ongoing management is clear, will prospective inspectors, counselors, bookkeepers, etc., be assured that job opportunities will continue to exist in Indian housing on the reservation. Once those job opportunities are seen as continuing, people will be willing to invest in the needed training. Besides using HUD staff to provide ongoing technical assistance to IHA employees, HUD might experiment with the concept of semi-permanent staff: people hired on two or three year contracts to provide technical assistance to designated IHA's.

Second, HUD must devise a carrot to induce IHA's to better performance, instead of merely the threat of reduced housing production if the IHA doesn't collect rent. 27/ Here, the importance of a coordinated HUD Indian program staff (recommendation B, above) becomes apparent. If an IHA demonstrates lack of ability, the coordinated HUD office might decide to allocate Community Development or Section 701 or other grant funds to supply the missing skill. As a condition of receiving further HUD housing, the IHA might be obligated to utilize the grant funds to employ qualified personnel (possibly from

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27/ If HUD simply cuts production to chastise weak IHA's, HUD has failed its mission of providing decent and safe housing. More likely than not, officials of the offending IHA will continue to be well housed, even as HUD denies good housing to the deserving members of the tribe still in poor housing. Instead of merely punitive sanctions, HUD must develop systematic incentives for IHA's to perform well.

among the HUD semi-permanent staff, if the IHA chooses to draw upon that source).

Finally, HUD must take steps to train Indian housing manpower. Some field officials speak of certifying qualified Indian managers. Once a pool of trained manpower exists, HUD may be able to require minimum certification for IHA executive directors. Until that trained manpower exists, it is largely useless to berate and pressure housing authorities without providing the needed technical support. It is time for HUD to build institutions; only then can the department expect to meet its commitment to build homes.

E. Conclusion

We asked HUD Counselor Joseph Burstein to provide an official HUD comment on the gap between HUD's present promises to build Indian housing and its poor performance. "We're unhappy about it, of course," he said. HUD is about to begin a thorough study of its Indian housing programs with an eye to improving them. Mr. Burstein added that the present report would be a welcome addition to the departmental review.

The new HUD commitment to reevaluate Indian housing programs would be more reassuring if HUD hadn't promised the same to Congress in 1975 28/and at the Indian Housing Conference of 1974 29/. On the other hand, even though HUD's Indian program personnel haven't changed, the advent of a new administration does hold promise for improvement.

28/ Indian Housing, Hearings before the Subcommittee on Indian Affairs of the Senate Interior Committee, May 1, 1975, pp. 43-44 (Testimony of Joseph Burstein).
29/ The National Indian Housing Conference, Scottsdale, Arizona, November 1974, Passim (Statements of HUD Secretary James Lynn and Assistant Secretary Gloria Toote).

It will be up to a vigilant Congress and aroused Indian and consumer groups to insure that the new HUD review marks the end of the department's trail of broken promises.